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Establishing Migrant Welfare Funds in Cambodia, Lao PDR and Myanmar

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An estimated one out of seven persons on the planet is engaged in some form of mobility – across borders or within their country. Migration, including labour migration, is a central component of current population dynamics and is a key enabler for development at the global level. According to 2013 estimates from the UN Department of Economic and Social Affairs, there are 232 million international migrants in the world and 9.5 million are in Southeast Asia. The number of international migrants in ASEAN has tripled since 1990 to 9.4 million, of which 6.5 million actually come from within ASEAN.¹

Over the past decade, investments were made to promote economic integration in ASEAN, and to facilitate the unhampered flow of goods and services. The ASEAN 2015 vision calls for an ASEAN Community by 2015, while the ASEAN Economic Blueprint calls for freer movement of professionals within ASEAN. Furthermore, the Socio-Cultural Community Blueprint and the ASEAN Declaration on the Protection and Promotion of the Rights of the Migrant Workers (Cebu Declaration) call for the protection and promotion of the rights of the migrant workers.² The ASEAN Labour Ministers Work Programme also pursues the sharing of good practices, particularly, the Philippine experience, to take the lead in assisting Cambodia, Lao PDR, Myanmar (also referred to as CLM) on labour migration management. This supports the ASEAN Initiative for Integration (IAI) to help narrow the gap among the newer members of ASEAN.

The people from Cambodia, Lao PDR and Myanmar are increasingly migrating internally (within national borders) and internationally (to other countries). Their migration is mostly motivated by economic reasons and is characterized by unequal development, irregular flows, unskilled labor, unrecognized contribution in host economies, and unrealized benefits of migration.³ Because of inadequate administration of labour policies in many of the sectors in which they work, migrants workers from CLM are often placed in poor work environments and may be vulnerable to labour exploitation. They may lack access to social protection for themselves and their families. The need for enhanced policy interventions dealing specifically with the well-being of migrants is thus clear.

The CLM governments must establish formal mechanisms to support and improve the welfare of their migrant workers. Cooperation programmes on labour migration in this sub-region must focus on improving the welfare of workers in order to contribute to inclusive economic growth and poverty reduction and harness the benefits of migration to both countries of origin and destination.

What is a Migrant Welfare Fund (MWF)?

A Migrant Welfare Fund (MWF) is a self-sustaining mechanism that enables the governments of countries of origin to provide additional welfare benefits and services to their migrant workers at the countries of destination, using a fund grown from the initial capital investments of foreign employers, recruitment

¹ UNDESA. 2013. *Trends in International Migrant Stock: The 2013 Revision*, United Nations Database.

² For more details on these documents, refer to the website of the Association of Southeast Asian Nations at <http://www.asean.org>.

³ Therese Caouette; Rosalia Sciortino; Philip Guest; and Alan Feinstein. *Labor Migration in the Greater Mekong Sub-region*. N.D. Available at http://piasdgserver.usp.ac.fj/apmm1/fileadmin/files/docs/thailand/LaborMigration_in_GMS.pdf, p. 17.

agencies and/or migrant workers. In practice, such funds may supplement the social security benefits and compensation of migrant workers; provide access to mediation and conciliation services between foreign employers and migrant workers; compensate for illness, injuries, disability and death sustained by workers while abroad; assist in the successful reintegration of migrant workers; and provide emergency and repatriation services to migrants in distress and/or during crisis situations.

The capital contribution to such funds and its management, the disbursement of benefits, the qualifications for membership, as well as the monitoring of the implementation and reinvestment of the fund's capital are subject to the specific laws and policies of a country. Additional benefits may also be extended to the families of migrant workers who are left at the countries of origin.

International guidelines and good practices

At a global level, the International Labour Organization's Multilateral Framework on Labour Migration recommends that "an orderly and equitable process of labour migration should be promoted in both origin and destination countries to guide migrant workers through all stages of migration," and encourages stakeholders to consider "the establishment of a welfare fund to assist migrant workers and their families, for example, in the case of illness, injury, repatriation, abuse or death."⁴

At a regional level, recommendations adopted at the ASEAN Forum on Migrant Labour (AFML) have called for the establishment of migrant welfare funds or similar welfare support systems, notably:

- 4th AFML held on October 2011 in Bali, Indonesia (Recommendation # 10): "In case of mass returns of migrant workers in emergencies, contingency plans should be prepared at company and embassy levels with the participation of migrant workers. For this purpose, assistance or contingency funds which cover repatriation costs need to be set up at the national level."
- 5th AFML held on November 2014 in Nay Pyi Taw, Myanmar (Recommendation # 8): "Referral systems between countries of origin and destination should be set up and assistance from embassies should be provided to ensure compensations and benefits are duly paid to migrant workers in a timely manner... including health care and treatment for long-term effects of occupational injuries and diseases."

Good practices among Asian countries supported by Migrant Welfare Funds include the Philippine pre-departure orientation to newly-hired migrant workers; the Sri Lankan training specific to domestic workers and subsidies provided to finance migration-related costs; and the Pakistani welfare fund which combines mandatory contributions of recruitment agencies and migrant workers to support the operation of schools, vocational training institutes and hospitals where migrant families get preferential access and discount to services.

⁴ ILO Multilateral Framework for Labour Migration, guideline 12.10. Available online at http://www.ilo.org/wcmsp5/groups/public/---ed_protect/---protrav/---migrant/documents/publication/wcms_178672.pdf

Points to consider in developing mechanisms for protecting the welfare of migrant workers

Certain pre-requisites must be met before a Migrant Welfare Fund can be successfully launched and managed:

Frameworks and policies on labour migration and standard employment contracts. Existing labour laws must be reviewed and enhanced to explicitly include the protection of migrant workers and extension of welfare benefits and services to create enabling legal environments to develop MWFs. The establishment and management of a MWF must be institutionalized through new legislation. With the continued movement of Cambodian, Laotian and Myanmar migrant workers into countries such as Thailand through separate Memoranda of Understanding, there is an opportunity to promote the inclusion of migrant welfare fund programmes in these countries' labour migration policies and the development of standard employment contracts that would uphold the basic welfare of migrant workers. A standard employment contract may include the following basic provisions, among others:

- specific job classification or position;
- place and duration of employment;
- rest days and compensation for overtime;
- monthly salary and other benefits, including contributions to social protection schemes;
- conditions for the pre-termination of a contract;
- grievances machinery.

Licensing regulations for private recruitment agencies. While initial efforts are already being implemented to regulate and monitor private recruitment agencies, further refinements are necessary to enhance regulatory systems for the protection of migrant workers. Including the following elements into the licensing qualifications may be considered:

- minimum capital requirements which can be adjusted in relation to the extent of liability according to the number of workers deployed annually;
- a form of joint liability clause where the recruitment agency is co-liaible for infractions committed by the employer.

Fee structure and fund management. Migrant welfare funds in other countries of origin e.g. Philippines, Pakistan and Sri Lanka, vary in membership fee from US\$17 to US\$25, mainly modeled after the Philippine case of US\$25 that was set in 1974 and implemented by fee collection in 1977. The board of trustees of the MWF is in charge of setting the membership fee and determine who would pay this fee -ideally the employer.

The membership fees should be accumulated and deposited with a financial institution authorized by the Central Bank. The Central Bank would select the preferred investment administrator that will exercise prudence in managing the fund and invest only in low-risk instruments. Accumulated fees may be invested on a quarterly basis, guided by a policy that part of the investment principal may be pre-terminated or used in case of significant emergency or crisis at worksites abroad.

The creation of the start-up capital fund (either from government sources or from the collection of membership fees) should precede the use or withdrawals against the fund for at least two years in order to develop a minimum amount of investible capital to sustain operation for a determined length of time. During the years that the capital fund cannot be used, the operational costs may be taken from the national government budget or other external sources.

Selecting programmes and services and mode of their delivery. The benefits and services to be provided by a MWF should be attuned to the specific needs of a country's diaspora. Programmes and services must be made available onsite and at home - making them easily accessible to migrant workers and their families. Basic benefits at the country of origin:

- Membership death benefit
- Membership disability benefit
- Organization of migrant workers families
- 24/7 contact center

Basic benefits at the destination country:

- Contract interpretation
- Employment dispute mediation
- Return migration advisory services
- Repatriation of workers and human remains
- Community organizing activities

Staffing and operational management of the MWF office. At the operational level, there should be a dedicated office run by the national government. The MWF office would be responsible for monitoring the fund and implementing the programmes and services. In addition, the provision of programmes and services at the countries of destination would be managed by labour attaches and welfare officers posted at the embassies or consulates. The labour attaches and welfare officers and their staff would form part of the posts' Labour Office.

The other operating Departments of the MWF may consist of the following:

Financial Management Unit: in charge of the collection and deposit of the membership fees, budgeting and disbursements of money for operating expenses; investment of the collected money in the Central Bank authorized depository bank.

Membership Services Unit: for recording and monitoring of memberships, payment of claims and benefits, and set-up of the information management system for the entire office, and the organization of family units of migrants into small civil society groups.

Overseas Operations Unit: to supervise and support the Welfare Officers to be assigned to Embassies, including the administrative personnel and case handlers, responsible for services delivery at the worksites.

The start-up team for the initial two-year period shall be composed of 12 officers and staff, inclusive of the Welfare Officer, administrative staff and case officer who will be assigned at the Embassy in Thailand.

At the policy-making level, a Board of Directors or Trustees should be formed. The Board should be chaired by the Labour Minister and composed of representatives from the Central Bank, the Social Welfare Ministry, the government agency that oversees labour migration, as well as trade unions, private recruitment agencies and civil society organizations.

To assist the Welfare Fund Office in providing services to migrant workers, the Social Security Administration and National Healthcare System may assign personnel to the Welfare Fund Office to provide for a more comprehensive service coverage to a single client.

Partnerships with relevant stakeholders. Partnerships can be explored with workers and employers groups, civil society organizations and the private sector (e.g. financial institutions, money transfer organizations and telecommunication companies) to expand the benefits and services for migrant workers and their families.

Mode of delivery of programmes and services. The rendition of these programmes and services are dependent upon the assignment of a Labour Attaché and Welfare Officer to manage the administrative staff and case management officers, altogether at the Embassy/Consulate of the origin states.

Blueprint to establishing a Migrant Welfare Fund

Action	Activity	Notes
1. Create a Technical Working Group (TWG)	Assign a small technical team (preferably led by the Labour Ministry and composed of other relevant ministries) that will: - act as a coordinator in the national effort to establish the MWF programme - analyze the labour migration environment - collect and organize data, gather information on all existing laws, policies and procedures - prepare a draft of proposed amendments of existing laws, policies and procedures	Resources should be provided by the Labour Ministry or National Government
	The consultative tripartite workshops, to be initiated by the Ministry of Labour, should include: - government actors involved in labour migration issues and social welfare services - workers and employers organizations - migrant leaders - civil society organizations - consular officers from the embassies in major countries of destination - external resource persons/experts - private sector actors (e.g. financial institutions) - parliamentarians - others involved in labour migration	TWG to collaborate with experts and prepare all materials and draft strategies that will be validated during the consultative workshops
2. Convene consultative workshops of tripartite partners and other stakeholders	Over a series of workshops, the TWG shall present: - its detailed studies - reliable migration data - new laws or revisions to existing laws, policies and procedures - proposed organizational structure to implement a MWF programme - menu of welfare programmes and services The consultative workshops should end with a joint resolution for the proposed legal and administrative amendments with specific funding mechanisms, organizational structure and key programmes and services.	The workshops should be structured to provide ample time for dialogue, the identification of priorities on benefits and services, and the formulation of a work plan with specified actors, targets and timelines

Action	Activity	Notes
3. Initiate strategic planning sessions	The objective of strategic planning sessions is to push for the implementation of the outputs of the consultative workshops and to gain the approval of concerned authorities The planning sessions should include: • The formulation of proposed amendments to laws, policies and procedures that would cover improvements in regulatory processes, licensing of recruitment agencies and management of labour migration data • The preparation of legal frameworks or ministerial orders to enable the establishment of a Migrant Welfare Fund that would describe the: - o coverage of the fund - o required programmes and services - o management information system - o organizational structure - o funding mechanisms - o management and investment processes for the welfare fund - o initiation of contacts with collaborating government agencies and private organizations at the countries of origin and destination. • Identify a major country of destination (e.g. Thailand) in which to pilot the delivery of programmes and services pending approval of enabling laws to govern the operation of the welfare fund. • Identify pilot implementing partners such as those among the trade unions and civil society organizations that already provide welfare programmes to migrant workers	The planning sessions can be led by the TWG with guidance from external experts
		Conduct an externally-guided monitoring and evaluation
4. Frame legislative and administrative policies	Ensure the passage of amendments to laws, policies and administrative procedures	Parliamentarians
5. Issuance of orders	Prepare and issue specific directives to implement the approved laws, policies and procedures. Ensure the release of the necessary funds for implementation.	To be led by the Technical Working Group

Action	Activity	Notes
6. Organize the Board of Trustees and Secretariat	The Labour Ministry must select and appoint the members of the Board of Trustees and the Secretariat staff The Secretariat would manage the implementation of programmes and services and monitor the performance of the Welfare Fund.	The staff must be provided with rigorous capacity-building training
7. Pilot the programmes and services	Assign a team to an embassy located at the target country of destination. Besides piloting the programmes and services, the team must begin strengthening its networks among the migrant workers and look for possible partners such as money transfer organizations and telecommunication companies Assess the worksite situation and make the necessary adjustments to programmes and services and the organizational structure Ensure that the necessary systems and procedures are in place, including: - welfare fund management - collection of member contributions - fund disbursement - investment protocols - reporting and auditing - management information system covering the delivery of programmes and services and disbursement of the welfare fund	
	Establish civil society and private sector partnerships for delivering welfare programmes and services, which could include: - contract and employment mediation - assistance on migrant worker complaints - repatriation services Identify assistance protocols appropriate to the country of destination as guided by the approved policies and procedures Establish migrant worker networks Conduct simulated repatriation exercises at the countries of destination and reception protocols at countries of origin	

Sub-regional meeting to validate the Migrant Welfare Fund feasibility study conducted in Myanmar, Cambodia and Lao PDR

In May 2015, a Sub-regional meeting to validate the migrant welfare fund feasibility study in Myanmar, Cambodia and Lao PDR was conducted. The outcome of the meeting was the following:

1. The meeting recognized the increasing trend in the number of migrant workers in ASEAN and the implications of the ASEAN Economic Community (AEC) 2015, particularly on the increased mobility of medium and low-skilled workers within ASEAN.
2. The meeting recognized the importance of enhancing the welfare services and programs for migrant workers and their families for the protection and promotion of their rights. In this regard, the Meeting agreed, where possible, to support measures that will lead to the establishment of a Migrant Welfare Fund or its equivalent in Cambodia, Lao PDR and in Myanmar.
3. The meeting brought clearer understanding and appreciation on how Migrant Welfare Fund (MWF) programs are operated and managed based on the experiences of some countries in ASEAN, particularly the Philippines and Vietnam.
4. The meeting appreciated the conduct of the feasibility study on the establishment of Migrant Welfare Fund for Cambodia, Lao PDR and Myanmar as initiated by the ILO through the ASEAN TRIANGLE Project (ATP) with the concurrence of the Government of Lao PDR as Lead Country in the capacity building program with ATP on the establishment of Migrant Welfare Fund for CLM countries, and with the support of the Government of Canada.
5. The meeting expressed appreciation on the report rendered by the ILO Lead Consultant and his team and agreed on its findings and recommendation which will be refined based on the following inputs and inclusion of the suggested activities herein stated as ways forward for CLM, among others:
 - a. Update Data on labour migration flows per country (to include data on seasonal workers and irregular migrant workers, where possible)
 - b. Development, strengthening/ amending or need to clarify the Legal frameworks on the provision of welfare and protection services to MW
 - i. Regulatory framework governing the sending of workers
 - ii. Implementing agencies
 - c. Define the support structure and its role for MWF
 - i. Lead agency (e.g. ministry of labour; ministry of social welfare)
 - ii. Inter-agency coordination
 - iii. Governance structure --- board of trustees, secretariat, fee structure, etc.
 - iv. Use of existing facilities and staff/ resources (Laos)
 - d. Update the provisions for the Standard Employment Contracts for migrant workers
 - e. Creation of licensing protocols for private recruitment agencies
 - i. Upgrade system of registration of employment agencies
 - ii. Define roles of PRA relative to welfare services and protection of workers

- f. Piloting the establishment of a Welfare Fund Program
 - i. Define operational strategies, evaluation and assessment
 - g. Follow up priority activities to include:
 - i. Country- specific activities to raise awareness of MWF concept and its roles and benefits; develop communication plan and strategy
 - ii. Create central committee or working group or task force to work and define the details of the MWF
 - 1. Set up rules for the working committee – lead planning exercises
 - 2. Identify sources of fund to support
 - 3. Involvement of social partners
 - iii. Sharing of information through meetings, dialogues and study visits
 - 1. Organize national consultative workshops
 - iv. Development and maintenance of an efficient database on labour migration and conditions of work in various worksites of migrant workers
 - v. Adoption and implementation of country-specific Capacity building program
 - vi. Partnership arrangements with relevant entities
 - vii. Complete the feasibility report
 - h. Provision of sustained technical assistance, through experts, from the ILO and other relevant partners agencies and donors
 - i. Identification of partner – national, regional and global level; to include PRA, Trade Unions, AMS and International organizations etc.
6. The Meeting expressed appreciation to the ILO and officials of Ministry of Labour and Social Welfare (MOLSW) of the Government of Lao PDR for hosting the meeting and for their warm hospitality.

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ASEAN TRIANGLE Project

Funded by the Canadian Department of Foreign Affairs, Trade and Development (DFATD), the ILO's project on Tripartite Action for the Protection and Promotion of the Rights of Migrant Workers in the ASEAN Region (ASEAN TRIANGLE Project) aims to significantly reduce the exploitation of labour migrants in the region through increased legal and safe migration and improved labour protection. The project promotes both bilateral and regional approaches to deal with shared concerns, make regionalism more effective, and enhance the capacity of institutions in ASEAN.

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